

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 10-20 and 28-34 are pending in the application, with claims 10, 15, 16, 18, 28, 30 and 31 being the independent claims. Claims 1-9 and 35 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein. Claims 10, 15, 16, 18, 28, 30 and 31 are sought to be amended. No new matter is added by way of these amendments. It is believed that the amendments presented above will place the application in condition for allowance and/or in better form for appeal. *See* 37 C.F.R. § 1.116(a). It is respectfully requested that the amendments after final Office Action be entered and considered.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

I. Claim Rejections Under 35 U.S.C. § 112, First Paragraph

A. Written Description

Claims 1-20 and 28-35 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly lacking sufficient written description. *See* Office Action, pages 2-3. Applicants understand the Examiner's position to be that, while claims directed to or including Cu,Zn-SODs of the dimeric type are adequately described, claims directed to or including

fragments, derivatives or variants of Cu,Zn-SODs of the dimeric type are not adequately described. *See e.g.*, Office Action at page 5, lines 4-6. Applicants respectfully disagree with the Examiner's position for the reasons set forth in Applicants' Amendment and Reply Under 37 C.F.R. § 1.111, filed on November 17, 2003. Nevertheless, solely to expedite allowance of the present application, the pending claims have been amended to no longer recite *fragments, derivatives or variants* of Cu,Zn-SODs.

In view of the claim amendments presented above, Applicants respectfully submit that the rejection under 35 U.S.C. § 112, first paragraph, for insufficient written description, is moot and should be withdrawn.

B. Enablement

Claims 1-20 and 28-35 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. *See* Office Action, page 6. Applicants understand the Examiner's position to be that, while claims directed to or including Cu,Zn-SODs of the dimeric type are enabled, claims directed to or including *fragments, derivatives or variants* of Cu,Zn-SODs of the dimeric type are not enabled. *See e.g.*, Office Action at page 6, lines 10-11 and at page 8, lines 2-5. Applicants respectfully disagree with the Examiner's position for the reasons set forth in Applicants' Amendment and Reply Under 37 C.F.R. § 1.111, filed on November 17, 2003. Nevertheless, solely to expedite allowance of

the present application, the pending claims have been amended to no longer recite fragments, derivatives or variants of Cu,Zn-SODs.

In view of the claim amendments presented above, Applicants respectfully submit that the rejection under 35 U.S.C. § 112, first paragraph, for lack of enablement is moot and should be withdrawn

II. Claim Rejections Under 35 U.S.C. § 102

A. Wilks

Claims 1, 2, 4-8, 9 and 35 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Wilks *et al.*, *Infection and Immunity* 66:213-217 (1998) ("Wilks"). *See* Office Action, pages 9 and 11. Applicants respectfully traverse this rejection for the reasons set forth in Applicants' Amendment and Reply Under 37 C.F.R. § 1.111, filed on November 17, 2003. Nevertheless, solely to expedite allowance of the present application, claims 1, 2, 4-8, 9 and 35 have been cancelled. Thus, Applicants respectfully submit that the rejection under 35 U.S.C. § 102(b), based on Wilks, is moot and should be withdrawn.

B. Langford

Claims 1-8, 9 and 35 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Langford *et al.*, *Infection and Immunity* 64:5035-5041 (1996) ("Langford"). *See* Office Action, pages 12 and 14. Applicants respectfully traverse this rejection for the

reasons set forth in Applicants' Amendment and Reply Under 37 C.F.R. § 1.111, filed on November 17, 2003. Nevertheless, solely to expedite allowance of the present application, claims 1-8, 9 and 35 have been cancelled. Thus, Applicants respectfully submit that the rejection under 35 U.S.C. § 102(b), based on Langford, is moot and should be withdrawn.

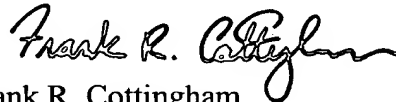
Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

A handwritten signature in black ink, appearing to read "Frank R. Cottingham". The signature is fluid and cursive, with the first name "Frank" and last name "Cottingham" clearly distinguishable.

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